

R E M A R K S

I. Introduction

Applicants have amended claim 1 to incorporate the limitations of claim 7 in order to further clarify the scope of the present invention. Claim 7 has been cancelled. In addition, claims 6 and 8-11 have been amended to reflect proper multiple dependent claim format. No new matter has been added.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art references.

II. The Rejection of Claims 1-5 Under 35 U.S.C. § 102

Claims 1-5 were rejected under 35 U.S.C. § 102 as being anticipated by Calsonic Corp. (JP 08-022845) and claim 1 was rejected under 35 U.S.C. § 102 as being anticipated by McMillan, Jr., et al. (U.S. Patent No. 5,202,200). Applicants respectfully submit that both Calsonic Corp. and McMillan Jr. fail to anticipate the pending claims for at least the following reasons.

With regard to the present invention, amended claim 1 recites a battery storing device comprising: a battery storing section that can store a battery inside and has a heat retaining function of retaining heat of the battery that is stored inside using heat insulating material; and a heat retention releasing mechanism for releasing the heat retaining function, wherein the heat retention releasing mechanism opens and closes an opening for making air flow between the inside and outside of the battery storing section.

In contrast to the present invention, Calsonic Corp. does not contain a heat retention releasing mechanism. The device disclosed in Calsonic Corp. utilizes a heater to cool and heat

the battery. Accordingly, this structure cannot be considered as having a heat retention releasing mechanism, but rather a forced cooling mechanism. However, even if the heater of Calsonic Corp. is considered a heat retention releasing mechanism, Calsonic still fails to disclose that the mechanism *opens and closes an opening* for making air flow between the inside and outside of the battery storing section. Therefore, Calsonic fails to disclose a heat retention releasing mechanism for releasing the heat retaining function, wherein the heat retention releasing mechanism opens and closes an opening for making air flow between the inside and outside of the battery storing section.

Turning now to McMillan Jr., it was alleged that this reference teaches a heat retention releasing mechanism consisting of an outer sheet **40** made of stop rip nylon and an inner liner **42** made of polyethylene insulation (see, col. 2, lines 17-19). Applicants fail to see where the disclosure of a *mechanism* for releasing heat is to be found in this passage. Accordingly, Applicants submit that McMillan Jr. fails to disclose the heat releasing mechanism. However, as in the discussion of Calsonic Corp. above, even if the combination of the stop rip nylon outer sheet **40** and polyethylene inner liner **42** disclosed in McMillan Jr. is considered a heat retention releasing mechanism, McMillan Jr. still fails to disclose that the mechanism opens and closes an opening for making air flow between the inside and outside of the battery storing section. Accordingly, McMillan Jr. also fails to disclose a heat retention releasing mechanism for releasing the heat retaining function, wherein the heat retention releasing mechanism opens and closes an opening for making air flow between the inside and outside of the battery storing section.

As anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference,

Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), and at a minimum, both Calsonic Corp. and McMillan Jr. do not disclose a battery storing device comprising a heat retention releasing mechanism for releasing the heat retaining function, wherein the heat retention releasing mechanism opens and closes an opening for making air flow between the inside and outside of the battery storing section, it is clear that both Calsonic Corp. and McMillan Jr. do not anticipate claim 1. As such, Applicants respectfully request that the § 102 rejection of claim 1, and all pending dependent claims thereon, be withdrawn.

III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

IV. Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication of which is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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